

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SUSAN L. MARTINAZZI, et al,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Case No. 1:22-cv-00463-SAB

ORDER DIRECTING THE CLERK OF THE
COURT TO TERMINATE UNITED
STATES AS A DEFENDANT IN THIS
ACTION

ORDER VACATING SCHEDULING
CONFERENCE

ORDER REMANDING ACTION TO STATE
COURT

(ECF Nos. 4, 5)

Trustee Plaintiffs Susan L. Martinazzi, Cynthia A. Wampler, Sandra L. Goldberg, and Peggy S. Schnoor (collectively “Plaintiffs”) initiated this quiet title action in state court on February 7, 2022, against Defendants United States, the State of California, and Barbara C. Schnoor. (ECF No. 1 at 3.) On April 19, 2022, Defendant United States removed the action to federal court.¹ (ECF No. 1.) On April 26, 2022, the United States answered the complaint. (ECF No. 3.) Defendants State of California and Schnoor have not yet appeared in this action.

¹ In the notice of removal, the United States indicates it is unaware of the position of other Defendants. (ECF No. 1 at 2.)

1 On June 13, 2022, all parties having executed consent, this matter was reassigned to Magistrate
2 Judge Stanley A. Boone for all purposes, including trial and entry of judgment. (ECF Nos. 6, 7.)

3 On June 9, 2022, Plaintiffs and Defendant United States submitted both a “Joint
4 Scheduling Report” and a “Stipulation Re IRS Certificate of Non-Attachment of Tax Lien,
5 Dismissal of United States and Remand to Madera County Superior Court.” (ECF Nos. 4, 5.) In
6 the stipulation, Plaintiffs and Defendant United States indicate that:

- 7 1. They consent to the dispositive jurisdiction of Magistrate Judge, Stanley A.
8 Boone;
- 9 2. They stipulate to the authenticity of a Certificate of Non-Attachment of Tax Lien
10 dated May 11, 2022, issued by the Internal Revenue Service (IRS) pursuant to
11 Section 6325(e) of the IRS Code stating that Plaintiffs and their property² were
12 not liable for any tax, penalty, interest or assessment subject of certain notices of
13 federal tax liens previously recorded³ (see Ex. A, ECF No. 5 at 6–9);
- 14 3. The United States affirms it does not claim any right, title, interest or lien as to or
15 against Plaintiffs or their property, as described in the stipulation (see ECF No. 5
16 ¶ 3);
- 17 4. Plaintiffs therefore agree to dismiss Defendant United States from the action, with
18 each side to bear their own fees and costs; and
- 19 5. Good cause exists to remand this action to the Madera County Superior Court of
20 California, Case No. MCV086520, for further proceedings.

21 (ECF No. 5.) Based on this stipulation, Plaintiffs and the United States seek the Court’s
22 acceptance of their proffered Exhibit A, a declaration that Plaintiffs are not liable for any tax,
23 penalty, interest or assessment subject to the previously identified recorded notices of federal tax
24 lien, dismissal of the United States, and an order remanding this action to the state court. (Id.)

25 ² The subject property, commonly referred to as 5516 Highway 152, Chowchilla, California 93610, Madera County
26 Assessor Parcel No. 021-010-001 is more particularly described in the stipulation at paragraph 3, and is incorporated
by reference herein.

27 ³ Specifically, the stipulation identifies the following Notices of Federal Tax Liens: (1) Serial No. 219614016,
28 recorded July 11, 2016 as Doc. No. 2016-015944; and (2) Serial no. 418024720, recorded October 26, 2020 as Doc.
No. 2020-027025. (ECF No. 5 ¶ 2.)

The joint scheduling report provides greater detail of Plaintiffs and the United States' communications leading to resolution of the IRS lien issues as to the subject property, but essentially restates the same request for relief and attached the parties' stipulation and exhibits. (ECF No. 4.)

Rule 41(a) of the Federal Rules of Civil Procedure allows a party to dismiss some or all of the defendants in an action through a Rule 41(a) notice. Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997); see also Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995) ("The plaintiff may dismiss either some or all of the defendants—or some or all of his claims—through a Rule 41(a)(1) notice."); Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 687 (9th Cir. 2005) (The Ninth Circuit has "only extended the rule to allow the dismissal of all claims against one defendant, so that a defendant may be dismissed from the entire action."). "Filing a notice of voluntary dismissal with the court automatically terminates the action as to the defendants who are the subjects of the notice." Concha, 62 F.3d at 1506.

Based on the foregoing, the Court construes Plaintiffs and the United States' stipulation as a dismissal of Defendant United States pursuant to Federal Rule of Civil Procedure 41(a) and shall direct the Clerk of the Court to terminate Defendant United States from this action. The Court notes the dismissal of Defendant United States is without prejudice, with each side to bear their own fees and costs, and the claims against the other named Defendants are not subject to the stipulation and will remain active. (Id.) Furthermore, the Court finds good cause exists to grant the remainder of the parties' requested relief.

Accordingly, after a review of the file, the stipulation of Plaintiffs and Defendant United States, and the attached exhibits, and good cause appearing, IT IS HEREBY ORDERED that:

1. The Court ACCEPTS Exhibit A (ECF No. 5 at 6–9) as a true, correct, and authenticated copy of Certificates of Non-Attachment of Tax Lien issued by the IRS dated May 11, 2022, pursuant to Internal Revenue Code § 6325(e) and based thereon, the Court finds and DECLARES:

- a. Plaintiffs are not liable for any tax, penalty, interest or assessment subject of those Notices of Federal Tax Lien: (1) Serial No. 219614016, recorded

July 11, 2016 as Doc. No. 2016-015944; and (2) Serial no. 418024720, recorded October 26, 2020 as Doc. No. 2020-027025; and

b. The United States has no right, title, interest of lien as to or against Plaintiffs or Plaintiffs' property and the Notices of Federal Tax Liens references in the Certificate of Non-Attachment of Tax Lien are released and terminated as to that certain parcel of 28 acres, more or less, located in the State of California 93610, being Madera County Assessor Parcel Number 021-010-001, and more particularly described in the parties' stipulation (ECF No. 5 ¶ 3), which is incorporated by reference herein;

2. The Clerk of the Court is DIRECTED to terminate Defendant United States as a defendant in this action;

3. The scheduling conference currently set for June 21, 2022, is VACATED;

4. This action is REMANDED forthwith to the Madera County Superior Court of California, Case No. MCV086520 for all further proceedings; and

5. The Clerk of the Court is DIRECTED to CLOSE this case.

IT IS SO ORDERED.

Dated: June 14, 2022


UNITED STATES MAGISTRATE JUDGE